

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1111

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-21-4-1, AS AMENDED BY P.L.135-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The following must be recorded in the recorder's office of the county where the land is situated:

- (1) A conveyance or mortgage of land or of any interest in land.
- (2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.

(c) This subsection applies only to a mortgage. **This subsection applies regardless of when a mortgage was recorded.** If:

- (1) an instrument referred to in subsection (a) is recorded; and
- (2) the instrument does not comply with the:
 - (A) requirements of:
 - (i) IC 32-21-2-3; or
 - (ii) IC 32-21-2-7; or
 - (B) technical requirements of IC 36-2-11-16(c);

the instrument is validly recorded and provides constructive notice of

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the contents of the instrument as of the date of filing.

SECTION 2. IC 36-2-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) This section does not apply to:

- (1) an instrument executed before November 4, 1943;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate; or
- (4) an instrument executed or acknowledged outside Indiana.

(b) Whenever this section prescribes that the name of a person be printed, typewritten, or stamped immediately beneath ~~his~~ **the person's** signature, the signature must be written on the instrument, directly preceding the printed, typewritten, or stamped name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

(c) **Except as provided in subsection (d),** the recorder may receive for record an instrument only if **all of the following requirements are met:**

- (1) The name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the person's** signature or the signature itself is printed, typewritten, or stamped.
- (2) The name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the** signature **of the witness** or the signature itself is printed, typewritten, or stamped.
- (3) The name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the** signature **of the notary public** or the signature itself is printed, typewritten, or stamped. ~~and~~
- (4) The name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in ~~his~~ **the person's** signature, and beneath ~~his~~ **the person's** signature.

(5) If the instrument is a copy, the instrument is marked "Copy".

~~or if subsection (d) is complied with:~~

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if **all of the following requirements are met:**

- (1) A printed or typewritten affidavit of a person with personal

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knowledge of the facts is recorded with the instrument.

(2) The affidavit complies with this section.

(3) The affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section. ~~and~~

(4) When the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(5) If the instrument is a copy, the instrument is marked "Copy".

(e) The recorder ~~may~~ **shall** record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

~~All copies accepted for recording shall be marked as copies by the recorder.~~

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. **A recorded copy shall have the same effect as if the original document had been recorded.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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